

SCPD POLICY AND LAW COMMITTEE MEETING MINUTES
APRIL 12, 2018 – 1:00 PM
SMYRNA REST AREA - SMYRNA, DE

Members Present: Marge Turner, Co-Chair; Daniese McMullin-Powell, Co-Chair; Deb Bradl, DHSS/DVI; Kathie Cherry, GACEC; Moni Edgar, CAP/SILC/UCP; Pat Maichle, DDC; Laura Waterland, DLP; John McNeal, Staff; and Amber Rivard, Support Staff.

GUEST: Bill Powell

CALL TO ORDER

Marge called the meeting to order 1:08 pm.

ADDITIONS OR DELETIONS TO THE AGENDA

- Legislation Next Week in Legislation – H.B. 160 End of Life Options

APPROVAL OF MINUTES

Marge made a motion to approve the February 8th minutes and Pat seconded the motion. The February minutes were approved as submitted.

REVIEW OF REGULATIONS AND LEGISLATION

Proposed Regulations

1. DDOE Section 1504 Certificates of Eligibility [21 DE Reg. 700, April 1, 2018]. Laura reviewed. Marge made a motion that the Councils should note one minor consideration is that given the date Certificates of Eligibility expire, it may not be possible for teachers with this certificate to participate in the Extended School Year. Depending on how many special education teachers are utilizing the Certificate of Eligibility, this could potentially create a shortage of qualified teachers during the summer months. The Councils will recommend the following revision to the proposed regulation: Add in a parental notification and a competence requirement for renewals. The Councils will also seek clarification whether Regulation §1507 will be updated to reflect its application to Certificates of Eligibility for special education teachers. It is worth noting that the proposed regulatory change does not address the specific requirements of an ARCP for special education teachers. Pat suggested adding in summer months. This will be included. Pat seconded the motion. Motion was carried with no one abstaining or opposing.
2. OCCL Regulation 101 Delacare Regulations for Early Care and School-Age Centers, [21 DE. Reg. 784 April 1, 2018]. Marge made a motion that the Councils endorse the changes related to the creation of a Medical Reasonable Accommodation Process, and ask for clarification that providers continue to be obligated to adapt behavioral strategies and management practices to address the needs of children with disabilities. Pat seconded the

motion. Motion was carried with no one abstaining or opposing.

3. OCCL Regulation 103 Delacare Regulations for Family and Large Family Child Care Homes, [21 DE. Reg. 791 April 1, 2018]. The Office of Child Care Licensing of DFS issued proposed regulations that are almost identical to the regulations analyzed above for Child Care Centers regarding Medical Reasonable Accommodations. Laura spoke about a section (62.2) that mentions developing a behavior plans for children with unacceptable behavior. She added that she did not think that they meant to eliminate this obligation. They changed the language that they are obligated to develop a plan in consultation with the guardian and professionals if necessary for any child for a behavior issue. They eliminate the language that talks about management practices for child with special needs, although section 63.3.4 otherwise requires them to do this. Laura has concern that where it was previously stated is to not there now. Marge made a motion that the Councils endorse changes related to the creation of a Medical Reasonable Accommodation Process, and ask for clarification that providers continue to be obligated to adapt behavior strategies and management practices to address the needs of children with disabilities. Pat commented that the DOJ is now investigating the practice that these providers cannot give diabetic injections. John commented that this is a violation of Section 504. This will be noted in the comments sent. Marge also made a motion to include #2 & #3 regulations as one response. Pat seconded the motion. Motion was carried with no one abstaining or opposing. Laura spoke about legislation that allows child care providers to have employees attend approved training to administer medications (HB 352). Laura will follow-up with the DSCYF about providing nurses to administer medication. Marge suggested including a comparison to Narcan in the comments sent. John suggested adding that part of the process include involving the Statewide ADA Coordinator.

Final Regulations

1. DSS Amendments to Child Care Assistance Sections 11002.1 and 11004 [21 DE Reg. 808 April 1 2018]. Only one regulation had been commented on previously by SCPD, which was in Final format this month. DSS made one change adding a cross reference to the definition of special need, and did not change the language related to requiring that an application be taken, confirming that “DSS encourages all Delaware residents to apply for available programs.” Laura stated that she had concern about this and spoke of concerns with many mistakes around immigration status. No further action taken.

Proposed Legislation

HS 1 for HB 49- Enhanced Security Features at Schools

This bill requires schools to install various safety features whenever “a new school is constructed or a major renovation is undertaken.” Laura spoke about the lack of space in a vestibule for a wheelchair. There was discussion about the Architectural Accessibility Board reviewing the plans. Marge made a motion that the Councils send comments requesting that any enhanced safety features in a new school or any renovations in an existing schools include the addition of ADA compliant language specifically requiring construction plans to abide by state and federal

accessibility requirements. Pat seconded the motion. Motion was carried with no one abstaining or opposing. John will follow-up with a meeting with the prime sponsors of the legislation.

SS1 for SB 85 - Data Requirements for School Disciplinary Reports

This bill seeks to amend Title 14 of the Delaware Code by requiring schools to collect data on school discipline among various subgroups, including students with disabilities, as part of an effort to reduce suspensions and promote greater fairness in disciplinary practices. Marge made a motion that the Councils support the legislation, but are asking the sponsors of the legislation for amendments that will: (1) strengthen requirements for data collection, disaggregation, and presentation; (2) require the Department to identify schools with high/disproportionate rates of in-school suspension; (3) require measuring discipline rates both in terms of the number of disciplinary actions and the percentage of students disciplined; (4) remove the exclusion of subgroups with fewer than 15 students in calculations; and (5) clarify how schools will track data (including the effectiveness of interventions), as well as the methods that will be used to verify accuracy. Pat seconded the motion. Motion was carried with no one abstaining or opposing.

HB 332- Financial Exploitation

This bill is designed to help prevent financial exploitation of “elderly persons” and “vulnerable adults” (collectively “Eligible persons”). Vulnerable adults include persons with disabilities who would be at an increased risk of exploitation. The purpose of the bill is not to prohibit financial exploitation, because such acts are already illegal or otherwise constitute actionable conduct. The purpose of the bill is to create reporting requirements for “qualified individuals” in the financial sector (i.e., “any agent, broker-dealer, investment adviser, investment adviser representative or any person who serves in a supervisory, compliance, or legal capacity for a broker dealer or investment advisor”) and to permit those persons to delay disbursements of funds if there is suspected exploitation. Laura commented that the freezing of assets up to 40 days could mean financial disruption and ruin, with evictions and power shut-offs as likely outcomes. Marge spoke about the large number of elderly being taken advantage of by family and friends. Marge made a motion that the Councils request that this bill be amended so that the reporting requirements exist when there is a reasonable belief that exploitation is occurring regardless of the status of potential victims. Also recommend that freezing of accounts should be for 48 hours rather than up to 40 business days. Deb seconded the motion. Motion was carried with no one opposing or abstaining.

HB 338 - Extension of FAPE Eligibility

HB 338 proposes to extend the end of eligibility for FAPE from the end of the school year when a student turns 21 to the end of the school year when a student turns 22. States are split on the termination age for FAPE. Currently, Arizona, California, District of Columbia, Florida, Georgia, Indiana, Michigan, New Mexico, Oklahoma, Tennessee, Utah, Vermont, and Virginia extend the termination age to 22 (Michigan actually goes to 25).ⁱ

Marge made a motion that the Councils endorse this measure. Pat seconded the motion. Motion carried with no one abstaining or opposing.

HB 344 - Education for Offenders with Learning Disabilities

This bill purports to “remove barriers and unrealistic goals to offenders with learning disabilities when being considered for parole or a sentence modification.” Laura recommended that the Councils consider whether to support the bill or withhold support and request a more robust bill that will help more people. Regardless, the language should be amended to reflect the changed terminology in HS 1 to HB 287 with HA 1. There was discussion about concerns about not having accommodations or a Section 504, although the intent is good. John will discuss concerns and lack of understanding with the sponsors of the legislation. The bill is too narrow and does not identify specifically how this will remove barriers. Marge made a motion that the Councils make legislators aware of concerns, re-emphasizing ADA compliance language. Pat seconded the motion. Motion was carried with no one opposing or abstaining.

HB 354 –Amendments to Equal Accommodations Statute

Amendments to Equal Accommodations statute related to service animals. The drafters made changes that DLP suggested in its earlier memorandum analyzing the bill. See separate DLP Memo. Marge made a motion that the Councils endorse this legislation as it clarifies the scope of the Equal Accommodations statute and makes clear that the accommodation of a service animal is not restricted to individuals with physical disabilities. Pat seconded the motion. Motion was carried with no one opposing or abstaining.

HB 363- Extension of Voting Hours for Referendums

HB 363 extends the hours for holding school elections from 10 am to 8 pm to 8 am to 8 pm. This measure should improve access to the voting process, especially voters who work and/ or use public transportation. Marge made a motion to endorse this legislation. Pat seconded the motion. Motion was carried with no one opposing or abstaining.

OTHER BUSINESS

John spoke about suggestions about how this process works for everyone. Laura stated that it is not a problem if it is scheduled like today (April 12th). It presents a problem if it's too close to the beginning of the month (for example, March 8th). Laura stated that she needs feedback from the Councils regarding what should be discussed by the first of the month. John spoke about time constraints in order to get the letters out. Pat noted that during the month of June, the number of bills accelerates. John is trying to get a full-time staff member to track bills in advance. The schedule will be modified when the second Thursdays falls on the 8th of the month. John asked that Laura send the DLP Memo in Word and PDF.

There was discussion about who should be attending meetings. John asked that responses be sent directly to him. Suggestions made:

- Architectural Accessibility Board
- Division of Public Health
- Division for Developmental Disabilities Services

- Advocate based group
- Members of the public (persons with disabilities)
- Chamber of Commerce
- Health Care Commission
- Department of Safety & Homeland Security

There was discussion about getting younger people involved and contacting Partners in Policymaking. The SCPD has been involved in this project. Marge commented that nonprofits are financially strapped and do not have extra staff available for advocating. John spoke about the CILS (Centers for Independent Living) and not knowing what they should be involved in. He suggested that they be invited to present at the SCPD Full Council.

ANNOUNCEMENTS

House Bill 160 may be on the floor of the House next week. John stated that he will resend SCPD comments to Legislators that were sent earlier.

PUBLIC COMMENT

None

ADJOURNMENT

The meeting was adjourned at 2:59 pm.

Respectfully submitted,

Jo Singles
Support Staff

policy & law/min 4-12-18